IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 27948 of 1995

Between:

S.Mallesh, S/o Chandraiah, aged 25 years,
Occ: Ex-employee, R/o Khanapoor, Gandipet,
Hyderabad, R.R.District.

..... PETITIONER

AND

1.The Labour Court-III, Rep. by its Presiding officer,
4th Floor, Chandravihar Building,
Nampally, Hyderabad.

2.The Range Officer,
Plantation Cell, Gandipet,
Under Metro Water Supply Sewerage Board,

Goshamahal, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for records from the 1st respondent in respect of I.D.No.297/92 and issue order or direction, particularly one in the nature of writ of Certiorari and quash the impugned Award dt 1-3-1995 made in I.D.No.297/92 published on 26-5-1995 vide G.O.Rt.No.986 dt.28-4-1995 as unjust, illegal, and in violation of principles of natural justice and issue of consequential direction to the 2nd respondent to reinstate the petitioner into service with full back wages, continuity of service and with other attendant benefits.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. M.VENKATESWARI, SC FOR WATER BOARD.

The Court made the following:

ORDER:

At the outset, it may be noted that the writ petition was filed by the petitioner through Sri V.Narasimha Goud, advocate. Sri V.Narasimha Goud, advocate informed the Court on 04.02.2005 that he gave up vakalat and no objection was taken from him by the petitioner on 31.01.2005. But, till date no vakalat is filed. Thereafter, the matter is adjourned to 11.02.2005 and on that day none appeared on behalf of the petitioner, therefore, it was directed to print the name of the petitioner and post the matter to 14.02.2005. Since none appeared on 14.02.2005, the matter was finally posted to today. Even today, though the name of the petitioner is printed, no one is present in the court.

2. This writ petition is directed against the Award dated 01.02.1995 passed by the Labour Court-III, Hyderabad in I.D.No.297 of 1992 wherein the claim of the petitioner-workman was rejected.

3. It is the case of the petitioner-workman that he joined the service of the second respondent establishment in the year 1987 as Plantation worker and worked continuously till 07.11.1992 on which day his services were terminated orally saying that his services are no more required. It was the complaint of the petitioner that his services were terminated without following any procedure as prescribed under law and as a measure of unfair labour practice and victimization. The oral termination of the petitioner was contrary to the provisions of Section 25 F of the Industrial Disputes Act and as such the same is liable to be set aside.

4. Before the Labour Court, the Management had filed a detailed counter denying the allegations made by the petitioner and it was asserted before the Labour Court that there was no employer and employee relationship. To carry out the plantation work, some casual labour are engaged during the seasons i.e., from June to

September in a year and the casual labour had to provide water, weeding and tending to the plants while the plants are under nursery stage. To engage casual labour, petty contractors are engaged and the petitioner seems to have worked under one such contractor. It is the further case of the respondents that the establishment of the respondent is neither a 'factory' nor an 'industry' to attract the provisions of the Industrial Disputes Act. Under the scheme of 'Green Belt programme' for raising the plants during the seasons, some casual labour are employed through some petty contractors and on completion of work, there will be discontinuance of the person engaged.

5. In the Labour Court, in support of his case, the petitioner-workman examined W.W.1 and W.W.2 and marked documents Exs.W1 and W2. On behalf of the Management M.W.1 was examined and Exs.M-1 to M-26 were marked. After detailed consideration of the entire evidence on record, the Labour Court came to the conclusion that there was no relation of employer and employee existed between the parties and as such the claim petition was rejected.

6. I have gone through the entire Award passed by the Labour Court and evidence available on record. I am of the considered opinion that the Labour Court has not committed any error in coming to the conclusion that the petitioner-workman is not entitled for any relief. Absolutely no evidence was placed before the Labour Court to prove his case, except saying that his claim for wages was allowed before the Payment and Wages Authority and as such it should be deemed that there is relationship of employer and employee.

7. In fact, the petitioner, in his cross-examination admitted the documents Exs.M-1 to M-7, which bear his own signature, which are copies of the agreement and bills showing that the petitioner was only engaged by a contractor. Further, under agreement Exs.M-1, M-16, M-18, M-20, M-22, M-24 the petitioner had undertaken to execute the work for different periods, for which he was paid remuneration under Exs.M-15, M-17, M-19, M-21, M-23 and M-25 bills. Thus, as per records the petitioner was not a N.M.R. worker and Ex.W-26 list does not show the name of the petitioner as N.M.R, who worked in the office during the relevant time. Therefore, the

Award passed by the Labour Court holding that the petitioner is not entitled for any relief does not call for interference of this court. The Labour Court has not committed any error in passing the Award against the petitioner dismissing his claim. The writ petition is devoid of merits and is liable to be dismissed.

8. Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,J.

Date: 25th February 2005.

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Presiding officer, Labour Court-III,
4th Floor, Chandravihar Building,
Nampally, Hyderabad.

2.The Range Officer,
Plantation Cell, Gandipet,
Under Metro water Supply Sewerage Board,

Goshamahal, Hyderabad.

3.Two CCs to the Government Pleader for Labour, High Court of A.P.,

Hyderabad (OUT).

4. Two CD copies

*Form-NIC-OGS/WP{**SAM**}*